

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL D. MITCHELL,

Petitioner,

Case No. 1:04-CV-135

v.

Hon. Gordon J. Quist

JOHN CASON,

Respondent.

ORDER GRANTING PETITIONER'S MOTION TO PROCEED *IN FORMA PAUPERIS*

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254. The court has denied petitioner's habeas action and petitioner has filed a notice of appeal. This matter is now before the court on petitioner's motion for leave to proceed *in forma pauperis* (docket no. 51).

The fee for appealing a civil action is \$455.00. A prisoner who is unable to pay the required filing fees may seek leave to appeal in a § 2254 action pursuant to Fed. Rule App. Proc. Rule 24(a). *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997). Under the provisions of that rule, if petitioner wishes to proceed *in forma pauperis* on appeal, he must file in the district court: (1) a motion for leave to proceed *in forma pauperis*; and, (2) an affidavit showing his inability to pay the required fees (in the detail prescribed by Form 4 of the Appendix of Forms), his belief that he is entitled to redress, and a statement of the issues he intends to present on appeal. Petitioner has substantially complied with Rule 24(a).

Based on this information, the court finds that petition has insufficient funds to pay the filing and docket fees required for an appeal. Accordingly, petitioner's motion to appeal *in forma pauperis* (docket no. 51) is **GRANTED**.

IT IS SO ORDERED.

Entered: July 9, 2007

/s/ Hugh W. Brenneman, Jr.
HUGH W. BRENNEMAN, JR.
United States Magistrate Judge